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Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

020736
FARKAS & MANELLI
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WASHINGTON DC 20036-3307

DM12/0226

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/084,441	05/27/98	091	PEFFLEY, M	3739 02/26/01
First Named Applicant	LIN,	35 USC 154(b) term ext. = 0 Days.		

TITLE OF INVENTION OPTHALMIC SURGERY METHOD USING NON-CONTACT SCANNING LASER.

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
3 62-575	606-005.000	Z97	UTILITY	YES	\$620.00	05/29/01

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.
If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.
Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PATENT AND TRADEMARK OFFICE COPY

Notice of Allowability

Application No.

09/084,441

Examiner

Michael Peffley

Applicant(s)

LIN, J. T

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Feb 8, 2001.
2. ☒ The allowed claim(s) is/are 1-24, 26, 28, 30, 32, 35-41, 43-49, 53-55, 57, 58, 60, 63-72, 75, 76, 78, 80-83, 85, 87-91, 93-95, 97, 98 and 105-119
3. ☒ The drawings filed on 27 May 1998 are acceptable as formal drawings.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED
7. ☐ Applicant MUST submit NEW FORMAL DRAWINGS
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No. _____
- (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner
- (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE / SERIAL NUMBER) if applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

- 1 ☐ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449), Paper No. _____
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☐ Interview Summary (PTO-413), Paper No. _____
- 6 ☐ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

Michael Peffley
Primary Examiner
Art Unit 3739

Notice of Allowability

Application No.

09/084,441

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Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

Michael Peffley
Primary Examiner
Art Unit 3739

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: as amended, the claims are deemed to distinguish over the prior art of record.

In the interest of expediting prosecution, applicant has agreed to admit the PCT application to Lai et al (PCT/US92/09625) was prior art for the purposes of examination. Further, applicant has submitted amendments to the claims which have distinguished the instant application claims from the Lai et al and other references of record.

Applicant submitted an amendment on December 1, 2000. Upon further consideration of the recapture rules, the examiner deemed certain specific elements are required in the pending application claims. Applicant provided a supplemental amendment on February 8, 2001. The supplemental amendment is deemed to obviate the recapture issues (see applicant's remarks in the amendment of February 8, 2001), to provide the amendments in the necessary and proper form, and to distinguish over the prior art of record.

In particular, the claims now all recite a laser device or method which includes a basic laser having a fundamental ultraviolet wavelength range, an energy level exiting from the output window of the basic laser of no greater than 10mJ per pulse, and a scanning means to scan the laser beam in a substantially overlapping pattern on the corneal tissue.

Lai et al disclose a laser device which includes wavelengths in the ultraviolet spectrum. However, Lai et al, as well as other prior art laser devices for treating corneal tissue, use an infrared basic laser which is then frequency doubled and/or tripled to

produce the ultraviolet wavelength. Further, Lai et al and other references (i.e. article to Ren et al, 1991) disclose a laser energy level at the corneal surface of less than 10 mJ per pulse. The energy at the laser output, however, is much greater and the energy level at the tissue surface is achieved through attenuation.

Finally, the prior art references also fail to disclose the particular overlapping pattern as set forth in the claims. Lai et al specifically teach that overlapping of the pulses is avoided (as do many other references).

While applicants also disclose a solid state laser which may be converted to create a UV wavelength treatment beam as taught in the Lai et al reference, applicants also disclose a basic laser with a fundamental UV wavelength with the power levels as claimed (see column 8, lines 7-10; column 8, lines 61-65).

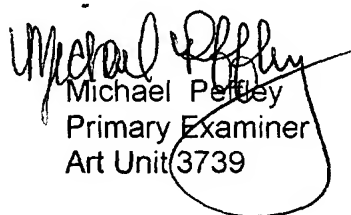
It is the examiner's position that the prior art fails to specifically disclose the basic laser system including a fundamentally UV wavelength output which provides the power and scanning characteristics as set forth in the application claims. Moreover, the prior art of record fails to disclose the method of using such a laser system to treat corneal tissue as set forth in the application claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on M-F (7:00-4:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda M Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Michael Peffley
Primary Examiner
Art Unit 3739

mp
January 9, 2001

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